IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 17349 of 2007(M)

OS.165/2003 OF MUNSIFF COURT,ATTINGAL

PETITIONERS:

1. **PUSHKARAN, S/O. NARAYANAN,**
   KIZHORE HOUSE, CHEMPUMMOOLA, AZHOOR VILLAGE.

2. **P.S.LOLI, D/O. PUSHKARAN,**
   RAMA BHAVAN, KADAVILA, ALAMCODE VILLAGE.

3. **S.Y.YESSES, S/O. SIVANANDHAN,**
   APPI NIVAS, NEVDAPURAM, KIZHOVILAM DESOM AND VILLAGE.

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON
SRI.KIRAN SANKAR

RESPONDENTS:

PRABHAKARAN @ PRAKASAN, S/O. NARAYANAN,
KISHORE BHAVAN, PADINJATTATHIL VEEDU,
MUDAPURAM, KIZHOVILAM DESOM, KIZHOVILAM VILLAGE.

BY ADV. SRI.G.S.REGHUNATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 17349/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE OS NO. 165/2003 ON THE FILE OF THE MUNSIFF COURT, ATTINGAL.

EXT.P2. COPY OF THE APPLICATION FOR INJUNCTION AS IA NO. 1098/2003.

EXT.P3. COPY OF THE OBJECTION BY THE DEFENDANTS TO IA NO. 1098/2003.

EXT.P4. COPY OF THE COMMISSION REPORT.

EXT.P5. COPY OF THE ORDER IN IA NO. 1098/2003 AND BY OTHER DT. 4/11/2004.

EXT.P6. COPY OF THE EXT. A1 DT. 23/07/93.

EXT.P7. COPY OF THE EXT. A2 TAX RECEIPT.

EXT.P8. COPY OF THE EXT.B1 DOCUMENT FILED BY THE DEFENDANT.

EXT.P9. COPY OF THE DOCUMENT NO. 836/1992.

EXT.P10. COPY OF THE ORDER DT. 29/09/2006 IN CMA NO. 39/2004.

EXT.P11. COPY OF THE PHOTOGRAPH SHOWING THE ENTRANCE TO THE RESPONDENT PROPERTY AND PETITIONER'S PROPERTIES.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE DOCUMENT NO. 836/92 DT. 30-3-92 OF THE CHIRAYINKEEZH SUB REGISTRY.

EXT.R1B. COPY OF THE DECLARATION SIGNED BY 14 PERSONS TO PROVE THE FACT.

True copy

tga

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 17349 OF 2007

= = = = = = = = = = = = = = =

Dated this the 19th day of June, 2007.

J U D G M E N T

When the matter came up for hearing today the learned Advocates appearing for both sides explained their respective cases to me. I feel at this stage it may not be correct to re-appreciate the entire matter and give a verdict because any observations made by this court at this interlocutory stage will substantially affect the rights of the parties. Therefore, I intend to dispose of the writ petition as follows:

(1) That the order passed by the Subordinate Judge restraining the defendant by an interim order of injunction from causing any obstruction to plaint 'C' schedule way will be in force till the matter is ultimately disposed of. Both the parties are directed not to alter the physical features of the property and not to commit any waste in the property till the disposal of the suit. It is also made clear that while disposing of the case the trial court shall not be carried away

by any observations made by it in its own order or the order of the appellate court.

M.N. KRISHNAN, JUDGE.

ul/-